IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.3727 OF 2006

Prakash B. Gaikwad ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri S.K.Keswani with Shri S.R.Dubey & Shri Ajay Tripathy, advs. for the Applicant.

Smt.M.H.Mhatre, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 22nd February, 2007.

P.C.:

1. Heard Mr.Keswani, the learned counsel for the applicant and Mrs.Mhatre, the learned APP for the State. Perused the police papers.

2. The applicant seeks to be released on bail in Crime No.184 of 2005 registered under Sections 399, 402 of the I.P.C. read with Sections 3 and 25 of the Arms Act and under the provisions of the M.C.O.C. Act.

3. Prosecution case in brief is that on 23-9-2005, the police informant gave confidential information to Senior Police Inspector of Crime Branch, Thane that 5 persons were likely to come to Dombivli by train and from there, they were likely to go near Pendharkar College Road with intent to commit dacoity as

businessmen used to visit Abhinav Sahakari Bank Limited for the cash transactions. Informant has also given description of those persons. On the basis of said description and the information, the police party arranged a trap and waited for the suspected 5 persons. It is contended that at about 5.35 p.m., 8 persons came there. Out of them 5 were caught on the spot by police while the others ran away. Out of the five persons, who were caught on the spot, the applicant Prakash B. Gaikwad is one. On his personal search from a bag hanging on his shoulders, one chopper, one koyta, one country made pistol and two live cartridges were found and seized. Later on, on the basis of information given by the applicant, an amount of Rs.35,000/- was also seized. As per the affidavit filed by Shankar Vithalrao Jawadwar Assistant Commissioner of Police, besides the present case, 2 more cases of robbery are registered against the present applicant during the year 2005. One of them is registered at Azad Maidan Police Station under Section 397 of the I.P.C. read with Section 3, 25 of the Indian Arms Act and another under Section 392 read with Section 34 of the I.P.C. is also registered at Vashi Police Station. According to the prosecution, taking into consideration the antecedents of the present applicant and the circumstances in which he was found, bail should not be granted to him. It is contended that

he is a member of organised crime syndicate and therefore, the provisions of M.C.O.C. are applied to him.

4. The learned counsel for the applicant contended that in the same case, accused no.7 Mangesh Narkar against whom six more cases are registered, has already been released on bail by the Sessions Court and on the principle of parity, the present applicant also deserves to be granted bail. On the other hand, the learned APP has pointed out that the accused no.7 Mangesh was not caught on the spot nor any incriminating article was seized from him. He came to be arrested on the basis of information given by the accused persons, who were caught on the spot and as there was no direct or circumstantial evidence against him in this case, the Sessions Court granted bail to him. The learned APP also referred to the contents of the order passed by the learned Special Judge while granting bail to Mangesh Narkar. In view of this I find that the case against Mangesh Narkar can be distinguished from the case against the present applicant.

5. Taking into consideration the fact that the present applicant was already involved in two robbery cases registered against him and in this case also he

was found in possession of several weapons, I find that it will not be in the interest of justice to grant bail to the present applicant.

6. For the aforesaid reasons, application stands rejected.

(J.H.Bhatia,J.)